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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/652,168	08/31/2000	Jeffrey L. Huckins	INTL-0453-US (P9661)	2633

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EXAMINER	
NGUYEN, DUSTIN	
ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/652,168	HUCKINS, JEFFREY L.	
	Examiner	Art Unit	
	Dustin Nguyen	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 January 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-30 are presented for consideration.

Response to Arguments

2. In view of the Appeal Brief filed on 01/03/2005, PROSECUTION IS HEREBY REOPENED. A non-final Office Action is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

For a claim to be statutory under 35 U.S.C. 101 the following two conditions must be met:

1) In the claim, the practical application of an algorithm or idea result in a useful, concrete, tangible result, AND

2) The claim provides a limitation in the technological art that enables a useful, concrete, tangible result.

As to the technology requirement, note MPEP section iV 2(b). Also note In Re Waldbaum, 173USPQ 430 (CCPA 1972) which teaches "useful arts" is synonymous with "technological arts". In Re Musgrave, 167USPQ 280 (CCPA 1970), In Re Johnston, 183USPQ 172 (CCPA 1974), and In Re Toma, 197USPQ 852 (CCPA 1978), all teach a technological requirements.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. The following terms lack antecedent basis:

I. said agents - claims 15, 21, and 30.

B. The claim language in the following claims is not clearly understood:

I. the claim language of "enable a first client in said set" of claims 1, 8, 20, 26, 27 is not clearly explained what the "set" is.

II. the claim language of "a message is sent to the first client or to the subset" of claims 1, 8, 20, 26 and 27 is not clearly explained what the "subset" is.

III. the claim language of "with the addressed subset" of claims 5, 12, and 27 is not clearly explained what "the addressed subset" is.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-6, 8-13, and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Kauffman et al. [US Patent No 5,260,778].

9. As per claim 1, Kauffman discloses the invention substantially as claimed including a method comprising:

assigning an individual identifier to a set of clients [i.e. assign group identifier] [col 4, lines 51-54];

assigning a group identifier to a subset of clients within the set of clients [i.e. assign subgroup identifier] [col 4, lines 51-54 and lines 61-62]; and

enabling a first client in said set to determine whether a message is sent to the first client or to the subset [i.e. determine if message is targeted to the subscriber terminal] [Abstract; col 5, lines 28-47; and col 11, lines 9-14].

10. As per claim 2, Kauffman discloses sending a single message to a subset of said clients [i.e. transmit message] [col 5, lines 28-34].

11. As per claim 3, Kauffman discloses sending television content to a plurality of clients [Abstract; and col 1, lines 7-15].

12. As per claim 4, Kauffman discloses assigning an individual identifier includes assigning a code portion that identifies a particular client as belonging to a subset of clients within the set of clients [i.e. control code] [col 5, lines 48-66].

13. As per claim 5, Kauffman discloses comparing a group identifier, received by a client with a message, to the client's individual identifier to determine whether the particular client is within the addressed subset [i.e. intend subscriber] [col 5, lines 33-39].

14. As per claim 6, Kauffman discloses addressing the same message to a subset of clients [col 2, lines 49-56].

15. As per claims 8-13, they are program product claimed of claims 1-6, they are rejected for similar reasons as stated above in claims 1-6.

16. As per claim 27, it is rejected for similar reasons as stated above in claim 1. Furthermore, Kauffman discloses a processor-based device [56, Figure 2].

17. As per claims 28 and 29, they are rejected for similar reasons as stated above in claims 3 and 5.

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

18. Claims 15, 21 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Hofmann et al. [US Patent No 6,236,983].

19. As per claim 15, Hofmann discloses the invention substantially as claimed including a method comprising:

providing at least two agents on a client [14A-D, Figure 1]; and

assigning a different address to each of said agents [i.e. unique identifier] [Abstract; and col 11, lines 15-16].

determining whether a message received by said client is addressed to one of said agents [i.e. determine which agent to activate] [Abstract; col 8, lines 9-14 and lines 26-39].

20. As per claim 21, it is rejected for similar reasons as stated above in claim 15.

21. As per claim 30, it is rejected for similar reasons as stated above in claim 15. Furthermore, Hofmann discloses a processor-based device [col 5, lines 42-43].

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

23. Claims 16, 17, 20, 22, 23, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann et al. [US Patent No 6,236,983], in view of Kauffman et al. [US Patent No 5,260,778].

24. As per claim 16, Hofmann does not specifically disclose sending at least two different types of messages to said client. Kauffman discloses sending at least two different types of messages to said client [col 1, lines 41-51]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Hofmann and Kauffman

because Kauffman's teaching of different types of messages would allow the system to be more dynamically adapted to any types of data traffic.

25. As per claim 17, Kauffman discloses sending messages including software and messages not including software [i.e. video signal and message signal] [col 1, lines 56-60; and col 8, lines 66-col 9, lines 4].

26. As per claim 20, it is rejected for similar reasons as stated above in claim 1.

27. As per claim 22, it is rejected for similar reasons as stated above in claim 16.

28. As per claim 23, it is rejected for similar reasons as stated above in claim 17.

29. As per claim 26, it is rejected for similar reasons as stated above in claim 1.

30. Claims 18, 19, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann et al. [US Patent No 6,236,983], in view of Kauffman et al. [US Patent No 5,260,778], and further in view of Fletcher et al. [US Patent No 6,009,274].

31. As per claim 18, Hofmann and Kauffman do not specifically disclose assigning different addresses to message to a client that include software and messages that do not include software.

Fletcher discloses assigning different addresses to message to a client that include software and messages that do not include software [col 1, lines 66-col 2, lines 35]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Hofmann, Kauffman and Fletcher because Fletcher's teaching would provide a better way that allows different types of data traffic to be more controllable and manageable.

32. As per claim 19, Fletcher discloses addressing messages including software to an agent on the client that is adapted to handle the downloading of software [Abstract; and col 3, lines 40-44].

33. As per claim 24, it is rejected for similar reasons as stated above in claim 18.

34. As per claim 25, it is rejected for similar reasons as stated above in claim 19.

35. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kauffman et al. [US Patent No 5,260,778], in view of Lalwaney et al. [US Patent No 6,289,377].

36. As per claim 7, Kauffman does not specifically disclose sending a message to a client in a unidirectional message system. Lalwaney discloses sending a message to a client in a unidirectional message system [i.e. one-way] [Abstract; and col 1, lines 16-19]. It would have

been obvious to a person skill in the art at the time the invention was made to combine the teaching of Kauffman and Lalwaney because Lalwaney's teaching would allow to reduce bandwidth utilization.

37. As per claim 14, it is program product claimed of claim 7, it is rejected for similar reasons as stated above in claim 7.

38. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

39. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Follansbee John can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen
Examiner
Art Unit 2154

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